

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

**STATE OF RHODE ISLAND
PROVIDENCE, SC**

SUPERIOR COURT

**William Moison,
Plaintiff**

C.A. No.:

v.

**Parkside Utility Construction, Corp.;
& Parkside Utility Construction, LLC,
Defendants**

COMPLAINT

INTRODUCTORY STATEMENT/NATURE OF THE ACTION

This action is commenced by William Moison (hereafter "Moison" or "Plaintiff"), against Parkside Utility Construction, Corp. & Parkside Utility Construction, LLC (hereafter "Defendants" or "Employer"), in order to remedy and seek relief for the Defendants' unlawful and discriminatory employment practices, in violation of The Rhode Wage Payment Statute; The Rhode Island Whistleblowers' Protection Law and The Fair Labor Standards Act.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to R.I.G.L. 8-2-14 et seq. All conditions precedent to establishing this court's jurisdiction over this action pursuant to R.I.G.L. 8-2-14 and other pertinent sections have been satisfied.
2. The employment practices hereafter alleged to be unlawful were, and are now, being committed in the State of Rhode Island, and form part of the same case or controversy.
3. Venue is proper in this Court, pursuant to, inter alia, R.I.G.L. §9-4-3 and §9-4-4 because:

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

2

- a. the alleged unlawful practices occurred and/or are continuing to occur within the State of Rhode Island, and in this judicial district;
- b. all records relevant to the alleged unlawful practices are maintained and administered in the Defendants' place of business in Providence, Rhode Island, and within this judicial district;
- c. the Plaintiff would not have been subjected to unlawful treatment by the Defendants at their place of business in Rhode Island, and within this judicial district, but for the Defendants' unlawful employment practices.

PARTIES

4. The Plaintiff, William Moison is a resident of Smithfield, Rhode Island.
5. On information and belief, Defendant Parkside Utility Construction, Corp. is a foreign corporation authorized to do business pursuant to the laws of the State of Delaware with a principal place of business, located at 123 King Phillip Street; Providence, RI 02909. Defendant Parkside Utility Construction, LLC. is a limited liability corporation organized under the laws of the State of Delaware.
6. On information and belief, at all times material to the allegations of this Complaint, the Defendants have continuously, and do now, employ at least 20 or more employees in the State of Rhode Island.
7. At all times material to the allegations of this Complaint, the Defendants qualified as an employer and/or covered entity pursuant to applicable provisions of the FLSA and the RI Wage Act and was an employer to the Plaintiff within the meaning of those Acts.

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

3

8. At all times material to this action, Plaintiff was an individual, employee, and/or person covered under the terms and provisions, and entitled to the protections of the FLSA; the RI Wage Act and other state and federal statutes.

9. On information and belief, and at all times pertinent to this Complaint, directors, managers, supervisors, administrators and employees engaging in discriminatory workplace treatment of the Plaintiff, were each a person acting in furtherance of the interest of, on behalf of, and as the agent of the employer, and the Defendants knew or should reasonably have known of their unlawful conduct.

FACTS COMMON TO ALL COUNTS

10. Plaintiff commenced work as a Laborer for the Defendants on February 8, 2017.

11. Plaintiff has maintained a positive work record during his tenure of employment.

12. Plaintiff separated from his position on July 10, 2018, being constructively discharged by the employer.

13. In his position with this employer, Plaintiff is not exempt from federal and state wage and hour laws.

14. Throughout his employment, Plaintiff and, upon information and belief, other similarly situated former and current employees, have been required to drive equipment and to transport materials, related to and/or integral to their employment from the Employers' principal facility in Rhode Island to worksites in Boston, MA.

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

4

15. Plaintiff and, upon information and belief, other similarly situated former and current employees, were denied pay for this time worked, compensable under existing state and federal wage and hour law, despite performing work duties for the employer.

16. Plaintiff was informed by company representatives that the company did not have to pay him because the vehicle(s) in questions were supplied for "his convenience" despite the fact that he was transporting the vehicle(s) themselves and materials for work related purposes.

17. Plaintiff was directed by certain company manager(s) not to correctly record his hours and to refrain from filing any report when he believed there to exist a problem with the truck he was driving.

18. Plaintiff was told by the Employer "we are doing you a favor so you do us one."

19. Plaintiff complained about what he perceived to be unlawful conditions at work and thereafter was constructively discharged.

20. The Defendants knowingly and purposefully subjected the Plaintiff to humiliating, discriminatory and retaliatory treatment because he complained about what he reasonably believed to be unlawful conduct.

21. The Defendants' conduct, as referenced in the preceding paragraphs, reflects, in both purpose and effect, a blatant, willful, and/or malicious pattern of discrimination and unlawful treatment against the Plaintiff. Such conduct has involved an intentional, reckless, and/or callous indifference to the statutorily protected rights of the Plaintiff.

COUNT I
WILLFUL VIOLATIONS OF THE FAIR LABOR STANDARDS ACT of 1938

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

5

**29 U.S.C. §15
(REFUSAL TO PAY FOR ALL HOURS WORKED)**

22. The allegation in paragraphs 1-21, above, are incorporated herein by reference, in their entirety.

23. Defendants, by their individual and/or concerted acts or omissions, including but not limited to, those described herein, violated the FLSA by failing, refusing, or withholding pay owed to Plaintiff, thereby causing the Plaintiff to suffer damages as aforesaid, for which he is entitled to relief.

24. Defendants by their individual and/or concerted acts and/or omissions, including but not limited to, those described herein, violated the FLSA, by subjecting Plaintiff to retaliation for reporting wage violations, thereby causing the Plaintiff to suffer damages as aforesaid, for which he is entitled to relief.

25. By the aforementioned acts and omissions, Defendants knowingly and willfully violated the Fair Labor Standards Act by retaliating against Plaintiff for reporting what he reasonably believed to be the Employers' unlawful wage/pay policies.

26. The immediate cause and/or motivating factor of Plaintiff's mistreatment was the Plaintiff's assertion of his rights under the Act and was discriminatory and violative of the provisions of this statute.

27. Plaintiff is due back pay, interest, liquidated damages and attorney's fees.

WHEREFORE, Plaintiff prays that judgment be entered herein against the Defendants, and in favor of Plaintiff for all damages and equitable relief available, as hereinafter requested.

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

6

COUNT II
VIOLATIONS OF RHODE ISLAND WAGE PAYMENT STATUTES
(REFUSAL TO PAY FOR ALL HOURS WORKED)

28. The allegation in paragraphs 1-21, above, are incorporated herein by reference, in their entirety.

29. In addition to Defendants' knowing and willful violations of the Fair Labor Standards Act, Defendants also knowingly and willfully violated the requirements of Rhode Island law to pay Plaintiff for all hours worked and retaliated against the Plaintiff for asserting his rights.

30. Defendants are liable to Plaintiff for willful violations of all applicable provisions of the RI Wage Act.

WHEREFORE, Plaintiff prays that judgment be entered herein against the Defendants, and in favor of Plaintiff for all damages and equitable relief available, as hereinafter requested.

COUNT III
THE RI WHISTLEBLOWERS' PROTECTION ACT
TITLE 28
SECTION 28-50-1

31. The allegation in paragraphs 1-21, above, are incorporated herein by reference, in their entirety.

32. The Defendants' conduct as described above was motivated by an intent to discriminate against the Plaintiff and retaliate against the Plaintiff because, *inter alia*, he asserted her legally protected rights to avail himself to a lawful working environment and for complaining about conduct which he reasonably believed to be unlawful.

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

7

33. But for the Defendants' intent to retaliate against the Plaintiff because of his conduct referenced in the previous paragraph, Defendants would not have retaliated against the Plaintiff or subjected him to discriminatory terms and conditions of employment, resulting in the separation of his employment.

34. Defendants' conduct is in violation of the RI Whistleblowers' Act, RIGL section 28-50-01 *et seq.*

35. As a result of Defendants' unlawful conduct, Plaintiff has suffered severe distress, with resulting physical and/or emotional injuries, humiliation, harm to his career, harm to her reputation, lost wages, lost opportunities for advancement, attorney's fees, and other damages.

WHEREFORE, Plaintiff prays that judgment be entered herein against the Defendants, and in favor of Plaintiff for all damages and equitable relief available, as hereinafter requested.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered herein against Defendants, and in favor of Plaintiff, for all damages and equitable relief available, including, but not limited to:

- a. a declaratory judgment declaring that the Defendants, in the manner described herein, willfully violated the requirements under the Fair Labor Standards Act, 29 USC §201, *et seq.*, and the RI Wage Act,

Case Number: PC-2018-5606
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

8

- b. in the alternative, a declaratory judgment declaring that the Defendants, in the manner described herein, violated that Fair Labor Standards Act, 29 USC §201, et seq., and the Rhode Island Wage Act.,
- c. an order that the Defendants make whole the Plaintiff, with appropriate lost earnings, benefits, and interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices;
- d. an order that the Defendants make whole the Plaintiff, by providing compensation for any pecuniary losses in amounts to be determined at trial;
- e. an order that the Defendants make whole the Plaintiff, by providing compensation for non-pecuniary losses, including, but not limited to emotional pain, suffering, humiliation, and mental anguish in amounts to be proven at trial, including an appropriate award of compensatory damages;
- f. grant attorney's fees and the costs of this action;
- g. grant punitive damages, as appropriate, to punish the Defendants for its malicious conduct and/or for its reckless and/or callous indifference to the statutorily protected rights of the Plaintiff;
- h. grant an appropriate award of prejudgment interest, including an award of interest for all damages awarded to the Plaintiff from the date this cause of action accrued, pursuant to R.I.G.L. §9-21-10; and
- i. grant such further relief as this Court deems necessary and proper.

DEMAND FOR TRIAL BY JURY

Case Number: PC-2018-5608
Filed in Providence/Bristol County Superior Court
Submitted: 8/6/2018 3:04 PM
Envelope: 1658120
Reviewer: Alexa G.

9

Plaintiff hereby demands trial by jury of all issues pertinent to the causes in this Complaint triable as of right by jury.

**Respectfully Submitted,
William Moison
By His Attorney,**

/s/ Stephen T. Fanning

**Stephen T. Fanning (#3900)
305 South Main Street
Providence, RI 02903
401-272-8250 / 401-272-4520 (FAX)**

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



SUPERIOR COURT

SUMMONS

Civil Action File Number PC-2018-5606	
Plaintiff William Moison v. Defendant Parkside Utility Construction, Llc	Attorney for the Plaintiff or the Plaintiff Stephen T. Fanning Address of the Plaintiff's Attorney or the Plaintiff 305 SOUTH MAIN ST PROVIDENCE RI 02903
Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence RI 02903 (401) 222-3250	Address of the Defendant 219 Ruth Road Harleysville PA 19438

TO THE DEFENDANT, Parkside Utility Construction, LLC:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

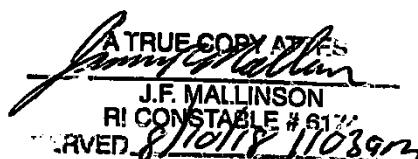
If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 8/6/2018.

/s/ Henry Kinch
Clerk

Witness the seal/watermark of the Superior Court


A TRUE COPY ATTEST
J.F. MALLINSON
RI CONSTABLE # 611
SERVED 8/7/2018 1103AM

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



SUPERIOR COURT

Plaintiff William Moison v. Defendant Parkside Utility Construction, Llc	Civil Action File Number PC-2018-5606
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PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, Parkside Utility Construction, LLC, by delivering or leaving said papers in the following manner:

With the Defendant personally.
 At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person of suitable age and discretion _____

Address of dwelling house or usual place of abode _____

Age _____

Relationship to the Defendant _____

With an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

With a guardian or conservator of the Defendant.

Name of person and designation _____

By delivering said papers to the attorney general or an assistant attorney general if serving the state.

Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.

Name of person and designation _____

STATE OF RHODE ISLAND AND



PROVIDENCE PLANTATIONS

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

I was unable to make service after the following reasonable attempts: _____

SERVICE DATE: _____
Month Day Year

SERVICE FEE \$ _____

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

Signature _____

State of _____

County of _____

On this _____ day of _____, 20_____, before me, the undersigned notary public, personally appeared _____ personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

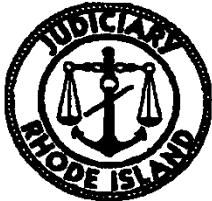
Notary Public: _____

My commission expires: _____

Notary identification number: _____

Page 2 of 2

See this notice in Cambodian, Spanish, and Portuguese on the attached pages.
Español: Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.
Português: Leia esta notificação em cambojano, espanhol e português nas páginas em anexo.



NOTICE

You have a case in the Rhode Island state court system.

You have the right to an interpreter at no cost to you.

Rhode Island Supreme Court Executive Order 2012-05 states that when a Limited-English Proficient (LEP) person appears in court, the Rhode Island Judiciary will provide a free authorized interpreter for the defendant, plaintiff, witness, victim, parent of a juvenile, or someone with a significant interest in the court proceeding. This interpreting service is provided at no cost to the parties and in all types of cases, both civil and criminal. Court interpreters work in all the courthouses of the Rhode Island state court system.

To schedule an interpreter for your day in court, you have the following options:

1. Call the Office of Court Interpreters at (401) 222-8710, or
2. Send an email message to interpreterfeedback@courts.ri.gov, or
3. Visit the interpreters' office to schedule an interpreter:

The Office of Court Interpreters
Licht Judicial Complex
Fourth Floor, Room 401
250 Benefit Street
Providence, RI 02903

When requesting an interpreter, please provide the following information:

- The name and number of your case
- The language you are requesting
- The date and time of your hearing
- The location of your hearing
- Your name and a telephone number where we can reach you or your lawyer

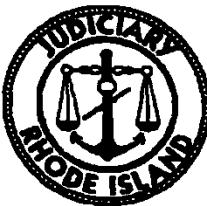
For more information in Portuguese, Russian, and Spanish, including a listing of court forms that are available in Spanish, please visit our website on the internet:
<http://www.courts.ri.gov/interpreters/englishversion/default.aspx>.

To request a translation of this notice into any other language, please call the Office of Court Interpreters at (401) 222-8710. It would be helpful to have an English speaker with you when you call.

The Rhode Island Judiciary is committed to making the courts accessible to all.

The Office of Court Interpreters
Licht Judicial Complex
Fourth Floor Room 401
250 Benefit Street
Providence, RI 02903

See this notice in Cambodian, Spanish, and Portuguese on the attached pages.
Español: Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.
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A V I S O

Usted tiene un caso en el sistema judicial de Rhode Island.

Usted tiene el derecho a tener un intérprete sin costo para usted.

La Orden Ejecutiva 2012-05 del Tribunal Supremo de Rhode Island dicta que cuando una persona que tiene un dominio limitado del inglés (LEP) comparece ante la corte, el Sistema Judicial de Rhode Island le proveerá un intérprete autorizado gratis sea el acusado/demandado, demandante, testigo, víctima, padre de un menor de edad alguien que tenga con un interés importante en el proceso de la corte. Este servicio de interpretación se le proveerá sin costo alguno a los participantes en toda clase de caso, sea civil o penal.

Los intérpretes judiciales trabajan en todos los tribunales del Sistema Judicial de Rhode Island.

Para solicitar un intérprete para su comparecencia en el tribunal, usted tiene las siguientes opciones:

1. Llamar a la Oficina de Intérpretes en el tribunal al 401-222-8710 ;
2. Mandar un correo electrónico a interpreterfeedback@courts.ri.gov; o
3. Presentarse a la Oficina de Intérpretes para solicitar un intérprete:

The Office of Court Interpreters
Licht Judicial Complex
Cuarto Piso, Oficina 401 A-B
250 Benefit Street
Providence, RI 02903

Al solicitar un intérprete, por favor provea la siguiente información:

- El nombre y el número de su caso
- El idioma que solicita
- La fecha y hora de su audiencia
- Dónde va a tomar lugar su audiencia
- Su nombre y número de teléfono por el cual nos podemos poner en contacto con usted o con su abogado.

Para obtener más información en portugués, ruso o español, incluyendo una lista de formularios de la corte que están disponibles en español, visite nuestra página de internet:

<http://www.courts.ri.gov/interpreters/englishversion/default.aspx>.

Para solicitar la traducción de este aviso en cualquier otro idioma, por favor llame a la oficina de intérpretes al (401) 222-8710. Ayudaría si usted puede estar en compañía de una persona que habla inglés cuando llame.

El sistema jurídico de Rhode Island se compromete a proporcionar a todas las personas mejor acceso a los tribunales.

The Office of Court Interpreters
Licht Judicial Complex
Fourth Floor Room 401
250 Benefit Street
Providence, RI 02903

See this notice in Cambodian, Spanish, and Portuguese on the attached pages.

Cambayano: SAMPLE: [Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.]

Español: Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.

Português: Leia esta notificação em camboyano, espanhol e português nas páginas em anexo.

NOTIFICAÇÃO

V. Ex.^a tem um processo em curso no sistema judiciário do Estado de Rhode Island,

V. Ex.^a tem direito aos serviços gratuitos de um intérprete.

A Ordem Executiva 2012-05 do Supremo Tribunal de Rhode Island prevê que quando uma pessoa com conhecimentos limitados da língua inglesa (*Limited-English Proficient*) (LEP) comparece em tribunal, a Administração Judiciária de Rhode Island disponibiliza-lhe gratuitamente os serviços de um intérprete autorizado a um réu, autor, testemunha, vítima, pai ou mãe de um menor ou alguém com interesse significativo no processo judicial. O serviço de intérprete é prestado gratuitamente às partes e em todos os tipos de processos, sejam eles civis ou penais. Os intérpretes do tribunal trabalham em todos os tribunais do sistema judiciário do Estado de Rhode Island.

Para agendar os serviços de um intérprete para o seu dia no tribunal, tem as seguintes opções:

1. **Telefonar para o Gabinete de Intérpretes Judiciais através do n.º (401) 222-8710, ou**
2. **Enviar uma mensagem de correio eletrónico para interpreterfeedback@courts.ri.gov, ou**
3. **Deslocar-se no gabinete de intérpretes para agendar os serviços de um intérprete:**

Gabinete de Intérpretes Judiciais
Complexo Judicial Litch
Quarto Piso, Sala 401
250 Benefit Street
Providence, RI 02903

Quando solicitar os serviços de um intérprete deve fornecer os seguintes dados:

- O nome e número do seu processo
- O idioma que solicita
- A data e hora da sua audiência
- O local da sua audiência
- O seu nome e um número de telefone para o podermos contactar a si ou ao seu advogado

Para obter mais informações em português, russo e espanhol, incluindo uma lista dos formulários judiciais disponíveis em espanhol, visite o nosso website na internet: <http://www.courts.ri.gov/Interpreters/englishversion/default.aspx>.

Para solicitar uma tradução desta notificação para qualquer outro idioma, telefone para o Gabinete de Intérpretes Judiciais através do número (401) 222-8710. Recomenda-se que esteja acompanhado por alguém que fale inglês quando fizer a chamada.

A Administração Judiciária de Rhode Island está empenhada em tornar os tribunais acessíveis para todos.

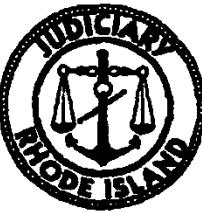
Gabinete de Intérpretes Judiciais
Complexo Judicial Litch
Quarto Piso, Sala 401
250 Benefit Street
Providence, RI 02903

សែសុចចិត្តទូទៅដែលបានសារូវ និស្សាន និងការទូទៅនៃសេដ្ឋកិច្ច។

សេចក្តីផ្តើមជីវិត

ເណັກអຸກາມບໍລິຫານເຊື້ອງຫຼັງນີ້ຕີ້ຫຼັງການກ່ຽວຂ້ອງ Rhode Island ວັດທະນາ

លោកអ្នកមនុស្សស្ថិតុយការបកប្រាសោយតែតិចតែក្នុងស្រាប់ខ្លួនប៉ុណ្ណោះ។



ສັນຕະພາບຂອງອານຸປະຊຸມສັນຕະພາບໃນ Rhode Island (Rhode Island Supreme Court Executive Order) ໂນດ 2012-05 ທີ່ມີຄວາມສັນຕະພາບໃຫຍ່ ເຊັ່ນກົດລົງທະບຽນວ່າມີຄວາມສັນຕະພາບໃຫຍ່ ເຊັ່ນກົດລົງທະບຽນວ່າມີຄວາມສັນຕະພາບໃຫຍ່

**The Office of Court Interpreters
Licht Judicial Complex
Fourth Floor, Room 401
250 Benefit Street
Providence, RI 02903**

ເຊື່ອເຮັດວຽກສົ່ງການທັງໝົດ ລາຍລະອຽດເນື້ອໃນອະນຸຍາກຕະຫຼາດ

<http://www.courts.ri.gov/interpreters/englishversion/default.aspx>

ເມື່ອງ/ນະຄູ/ມະນຸຍາ/ບໍລິສັດເມື່ອນິກົດເອົາ: ດ້ວຍການສາມາດຢູ່ຢາວເປົ້າໄປ ສະໜອງນັກການໃຫຍ້ເຫັນວ່າກົດຕົວໄດ້ (401) 222-8710 ແລ້ວ

ទីលាក់: Rhode Island ឬជាថ្មីជាការណាមួយបែងចាយនៃការបង្កើតរាជការ។

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